

ORDINANCE NO. 20130620-089

AN ORDINANCE AMENDING TITLE 13 OF THE CITY CODE RELATING TO HELI-FACILITIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 13-1-15 of the City Code is amended to read as follows:

(A) Except in an emergency, a person may not land an aircraft in the city except that [on]:

(1) a fixed wing aircraft may land:

(a) on designated runways at the airport;

(b) on a field or body of water approved in advance by the director and the director of the planning and development review department;[an airport runway; or]

(2) a helicopter may land:

(a) on a designated landing area at the airport; or

(b) at a heli-facility that has a valid heli-facility permit obtained pursuant to article 4 of this chapter, subject to the terms of the heli-facility permit; and [a privately owned airport runway, a body of water, or a field approved in advance by the Director and the director of the Watershed Protection and Development Review Department.]

(3) an aircraft other than a fixed wing aircraft or a helicopter may land on a field approved in advance by the director and the director of the planning and development review department.

(B) For purposes of Sections 1-1-99 and 13-1-201, a person who violates this section commits an offense for each non-emergency landing.

PART 2. Section 13-1-171 of the City Code is amended to read as follows:

(A) Terms not otherwise defined in this article have the meaning prescribed by applicable aviation law, including Federal Aviation Administration Advisory Circular 150/5390-2 [~~150/5390-2A~~] (*Heliport Design Guide*), Federal Aviation Administration Advisory Circular 150/5020-1 (*Noise Control and Compatibility Planning for Airports*), and Appendix A of 14 Code of Federal Regulation Part 150.

(B) In this article:

- (1) APPROACH AND DEPARTURE PATHS means the flight tracks helicopters follow when landing at or departing from a heli-facility.
- (2) APPLICATION means an application for issuance of a heli-facility permit pursuant to this article.
- (3) CATEGORY I means a helistop approved for a cumulative total of 10 or fewer helicopter takeoffs and landings per day and 18 total operations during the period of the heli-facility permit.
- (4) CATEGORY II means a helistop approved for a single specific event of not more than three consecutive days during the period of the heli-facility permit, with a cumulative total of helicopter takeoffs and landings not to exceed eight operations per hour per day. In addition, no more than three approved helicopters may use an approved category II helistop without special consent of the director.
- (5) CATEGORY III means a permanent heliport facility.
- (6) COMMISSION means the City of Austin Airport Advisory Commission.
- (7) DAY-NIGHT AVERAGE SOUND LEVEL (Ldn) means the 24-hour average sound level, in dB, for the period from midnight to midnight, obtained after the addition of 10 dB to sound levels for the periods between midnight and 7 a.m., and between 10 p.m. and midnight, local time.
- (8) dB means decibels, a logarithmic scale for measuring sound intensity.
- (9) DIRECTOR means the Director of the Aviation Department.

- (10) ENVIRONMENTALLY SENSITIVE AREA means, as defined by the U.S. Environmental Protection Agency, an area that includes important natural resources such as sensitive topographic features (i.e. steep slopes (>15%)), geologic/geomorphic formations, sinkholes and karst terrain, scenic vistas/overlooks/lookouts and public and private forest and woodlands.
- (11) EQUIVALENT SOUND LEVEL (Leq) means the average noise level during a designated period (less than 24 hours).
- (12) FAA means the United States Federal Aviation Administration.
- (13) [(4)] HELICOPTER means a rotorcraft that depends principally on its engine-driven rotors for its horizontal motion.
- (14) [(2)] HELI-FACILITY means a heliport or a helistop.
- (15) HELI-FACILITY PERMIT means written authorization obtained pursuant to this article for the operation of a heli-facility in the city.
- (16) [(3)] HELIPORT means the [a building or an] area of land, [or] water, or a structure [including appurtenant facilities,] used or intended to be used permanently for [helicopter] the landing and takeoff of helicopters, together with appurtenant buildings and facilities.
- (17) [(4)] HELISTOP means a minimally developed heli-facility that is temporarily designated as a landing area for one or more helicopters to be used for the [designed to permit] boarding and discharge of passengers or cargo, or for a specific educational, commercial, or community purpose, or for a construction project, and which is not equipped with [a] helicopter maintenance, fueling activities, repair, or storage facilities [facility].
- (18) [(5)] HOSPITAL HELIPORT means a heliport that only serves helicopters engaged in air ambulance service or other hospital related functions.
- (19) INCOMPATIBLE NOISE means anticipated noise measurement from the operations proposed in an application that, based on noise modeling, noise monitoring of heli-facilities in the past, or the department's noise monitoring of test flights in the vicinity of the

proposed location for the heli-facility, would be expected to exceed with unreasonable frequency and/or duration the levels indicated below for specific types of noise sensitive areas:

(a) noise measurement of 65-70 dB or greater for residential, mobile home parks, transient lodgings, schools, hospitals, nursing homes, places of worship, concert halls, outdoor music shells, amphitheaters, or substantially similar land uses; or

(b) noise measurement of 70-75 dB or greater for governmental services, offices (business and professional), auditoriums, nature exhibits, zoos, or substantially similar land uses; or

(c) noise measurement of 75-80 dB or greater for livestock farming or breeding, general retail, photographic or optical manufacturing or production, amusement parks, golf courses, parks, riding stables, resorts, water recreation areas camps, or substantially similar land uses; or

(d) noise measurement of greater than 85 dB for parking, wholesale or retail sales of building materials, hardware or farm equipment, utilities, general manufacturing, or substantially similar land uses;

(e) provided, however, that the noise measurement reasonably anticipated from the proposed heli-facility's operations shall not be deemed incompatible noise with respect to any particular noise sensitive area if the noise measurement from self-generated noise from that noise sensitive area and/or the ambient noise at that noise sensitive area exceeds the noise measurement reasonably anticipated from the proposed heli-facility's operations.

(20) NOISE means any sound that is deemed undesirable by an individual.

(21) NOISE MEASUREMENT means generally the applicable technical standard to be used for incompatible noise, noise modeling, or noise monitoring of a particular type of heli-facility, and means specifically:

(a) for a category I or category II, the A-weighted equivalent sound level (L_{eq}), measured in accordance with FAA Integrated Noise Model guidelines; and

(b) for a category III, the yearly day-night average sound level (L_{dn}), measured in accordance with FAA Integrated Noise Model guidelines.

(22) NOISE MODEL means a computer model, developed by the FAA (or an FAA approved equivalent), suitable for evaluation of anticipated helicopter noise impacts in the vicinity of a heli-facility. Noise modeling can output either noise contours for an area or noise level at pre-selected locations. The noise output can be either exposure-based, maximum-level-based, or time-based.

(23) NOISE MONITORING means the analysis, with computerized aircraft noise and flight track data collections and processing systems, of the noise impact of heli-facility operations on noise sensitive areas, using data acquired from helicopter transponders, noise from permanent and portable noise monitors, weather observations, citizen complaints, radar, and other sources.

(24) ~~[(6)]~~ NOISE SENSITIVE AREA means land uses identified by FAA Advisory Circular 150/5020-1 (*Noise Control and Compatibility Planning for Airports*) and Appendix A of 14 Code of Federal Regulation Part 150 as noise sensitive areas, including land used for any of the following or substantially similar purposes: residential, mobile home parks, transient lodgings, schools, hospitals, nursing homes, places of worship, auditoriums, concert halls, government services facilities, offices (business or professional), retail businesses, communication facility, livestock farms, ranches, or breeding facilities, outdoor sports arena, spectator sports facilities, outdoor music shells, amphitheaters, nature exhibits, zoos, amusement parks, parks, resorts, camps, riding stables or water recreation areas ~~[the area within a 4,000 foot radius of a school, church, hospital, nursing home, single family residential area, or other area identified by the city manager].~~

(25) ONLINE means a centralized link on the department's internet web site from which the public can easily access all information regarding heli-facilities required by this article to be posted or published.

- (26) OPERATION means either one helicopter landing or one helicopter takeoff at a heli-facility.
- (27) OPERATIONAL HOURS means the hours of the day that category II operations may occur between 7:30 A.M. (local) and 8:30 P.M. (local).
- (28) ~~[(7)]~~ OWNER means a person having a legal or equitable interest in a helicopter, a heli-facility, or a helicopter venture.
- (29) ~~[(8)]~~ PRIVATE USE HELIPORT means a heliport that is developed for the exclusive use of its owner and persons authorized by the owner.
- (30) ~~[(9)]~~ PUBLIC USE HELIPORT means a heliport available for use by the general public without the prior approval of the owner or operator.
- (31) REASONABLE FREQUENCY means eight operations per hour per day for a category II heli-facility.
- (32) SPECIAL CONSENT means consent by the director to authorize certain operations as set forth in section 13-1-181(H).
- ~~[(10)]—TEMPORARY HELISTOP means a helistop that is approved for a cumulative total of 18 or fewer helicopter takeoffs helicopter takeoffs and landings on a temporary basis for an advertising, promotional, educational or community service purpose, or a construction project.]~~

PART 3. Section 13-1-172 of the City Code is amended to read as follows:

(A) This article applies to any [a] heli-facility located ~~[and helicopter use from a ground or elevated site in the city at a location]~~ outside of an aviation services (AV) district.

(B) This article does not apply to property owned by a federal and state government or agency.

PART 4. Section 13-1-173 of the City Code is amended to read as follows:

§ 13-1-173 APPLICATION DEADLINES, CONDITIONS, AUTHORITY, APPEALS, AND CALCULATION OF DEADLINES.

(A) An administratively complete application must be filed with the department:

(1) 30 days in advance of the requested effective date for a category I;

(2) Six months before the requested effective date for a category II.

(B) The following are not considered part of the application but rather are conditions to the issuance of a heli-facility permit after approval of an application (“conditions”):

(1) For a category I and a category II, submission to the director by the applicant of a signed inspection from the Austin Fire Department for compliance with International Fire Code and National Fire Protection Association standards;

(2) For a category II and a category III, submission to the director by the applicant of a FAA letter of no objection to the planned approach and departure paths for the proposed heli-facility;

(3) For a category III, receipt by the applicant of a conditional use permit as required by section 25-2-861 (*Facilities for Helicopters and Other Nonfixed Wing Aircraft*) of the code;

(4) For a category III, submission to the director by the applicant of a FAA letter of airspace determination; and

(5) For a category I and a category II, the transponder code as assigned by FAA at time of flight for each helicopter using the heli-facility.

(C) In order to expedite the application process, the director shall not wait for any condition to be satisfied to determine that the application is administratively complete and to commence review of, or to issue a decision either approving or denying, an application.

(D) [A] The director may issue a heli-facility permit upon his determination that:
[for a heli-facility or authorize a temporary helistop.]

(1) The application has been approved:

(a) and no timely notice of appeal has been filed for
category II or category III; or

(b) the city manager, or city council, as applicable, has rendered a
decision overruling an appeal of the director's determination; and

(2) All conditions have been met.

(E) [~~B~~] The director may adopt rules, consistent with applicable law and this
article, relating to the operation of a heli-facility [~~under this article~~].

(F) For purposes of section 2-5-62 of the code:

(1) An applicant shall have standing to appeal the director's
determination of an application, or to respond to an appeal of the director's
determination, of an application.

(2) Any resident, tenant, owner, user, or operator of a noise sensitive area
or environmentally sensitive area has standing to appeal the director's
determination of a category II or category III application if the appellant
alleges the proposed operations would:

(a) expose the noise sensitive area to incompatible noise; or

(b) pose a material threat to life, health, or property at the noise
sensitive area; or

(c) pose a material threat to the environmentally sensitive area.

(G) A person with standing may appeal the director's decision by filing with the
director, no later than fourteen (14) days after the date of the director's decision, a
"notice of appeal", which shall include:

(1) the name, address, and telephone number of the appellant;

(2) the name of the applicant, if the appellant is not the applicant;

- (3) the decision being appealed;
- (4) the date of the decision;
- (5) a statement of the basis of the appellant's standing; and
- (6) the reasons the appellant believes the director's decision on the application does not comply with the requirements of this article.

(H) A person with standing may respond to an appeal by filing with the director, no later than fourteen (14) days after the date on which the notice of appeal was filed, a "response to appeal", which shall include:

- (1) the name, address, and telephone number of the respondent;
- (2) identification of the appeal to which the response to appeal relates;
- (3) a statement of the basis of the respondent's standing; and
- (4) the reasons the respondent believes the director's decision on the application complies with the requirements of this article.

(I) Within three business days of receipt of a notice of appeal or a response to an appeal relating to a category II application, the director shall deliver the notice of appeal or a response to an appeal to the city manager who shall decide the appeal.

- (1) The city manager shall have 45 days from the date of the director's decision to decide an appeal relating to a category II application.
- (2) The city manager's decision shall be in the form of a written opinion stating the findings of fact, provisions of applicable law, and provisions of this article on which the city manager's ruling on the appeal is based.

(J) The department shall post online every notice of appeal and response to a category II appeal within three business days filing, every decision on an appeal within one day of issuance, and every heli-facility permit within one day of issuance, and shall keep them posted online until such time as they are no longer relevant;

(K) For purposes of determining the deadline for taking action within a period of a specified number of days as required by this article:

(1) the day of the event that triggers the deadline shall not be counted;

(2) any day falling on a weekend or city holiday shall be counted unless the weekend or city holiday is the last day of the period;

and

(4) the deadline shall be 5 P.M. (Central Time) on the last day of the period as determined in the manner in this section.

PART 5. Section 13-1-175 of the City Code is amended to read as follows:

§ 13-1-175 CATEGORY III ~~[HELIPORT]~~ IDENTIFICATION NUMBER.

(A) The permittee is required to obtain a heliport location identifier from the FAA. ~~[The Watershed Protection and Development Review Department shall provide a permittee with a City heliport identification number.]~~

(B) The department shall maintain information ~~[At the request of a governmental agency, the Watershed Protection and Development Review Department shall provide a map]~~ identifying each heliport ~~[heli-facility]~~ in the city by type, location, identification number, and name of the owner or operator.

(C) The owner or operator of a heliport shall display the heliport markings as required by FAA 150/5390-2 and section 13-1-186 ~~[City heliport identification number as required by Section 13-1-185]~~ (*Heli-facility Standards and Marking*).

PART 6. Section 13-1-176 of the City Code is amended to read as follows:

(A) Except as provided in subsection (B), the director may not issue a heli-facility permit ~~[to or authorize]~~ for a proposed heli-facility in a residential base district as described in Division 2 (*Residential Base Districts*), Article 2 (*Zoning Districts*) of Chapter 25-2 (*Zoning*).

(B) Notwithstanding that the heli-facility would be in a zone district listed in subsection (A), the ~~[The]~~ director may, if all other requirements of this article are

satisfied, issue a heli-facility permit for a proposed: ~~[to a hospital heliport or authorize a temporary helistop on a construction site in a zoning district listed in Subsection (A).]~~

- (1) hospital heliport; or
- (2) category I on a construction site.

PART 7. Section 13-1-177 of the City Code is amended to read as follows:

The director shall apply the following priority ranking in approval of a heli-facility site:

- (1) a hospital category III [heliport] and other category III [heliport] intended for emergency use by a fire department or law enforcement agency;
- (2) a public use category III [heliport]; and
- (3) a private use category III; and [heliport.]
- (4) a category I and a category II.

PART 8. Section 13-1-178 of the City Code is amended to read as follows:

§ 13-1-178 HELI-FACILITY PERMIT ~~[OR AUTHORIZATION]~~ REQUIRED;
OFFENSE.

(A) To establish or operate a category I or category II in the city, a person must obtain a heli-facility permit from the director ~~[Except as provided in subsection (B), to establish or operate a heli facility in the city, a person must obtain:~~

- ~~(1) a permit from the director; and~~
- ~~(2) a conditional use permit as required by Section 25-2-861 (Facilities for Helicopters and Other Nonfixed Wing Aircraft) of the Code].~~

(B) To establish or operate a category III in the city, a person must obtain:

- (1) a heli-facility permit from the director; and

(2) a conditional use permit as required by Section 25-2-861 (*Facilities for Helicopters and Other Nonfixed Wing Aircraft*) of the Code [~~A person who wants to operate a temporary helistop may apply to the director for written authorization to operate~~].

(C) A heli-facility permit [~~or authorization~~] issued under this article is non-transferable.

(D) For purposes of sections 1-1-99 and 13-1-201, each separate non-emergency landing knowingly allowed by the owner or operator of a heli-facility without a valid heli-facility permit is a separate offense of this section by the owner and operator.

PART 9. Section 13-1-179 of the City Code is amended to read as follows:

(B) A heli-facility permit is not required for an unprepared site at or near the scene of an accident or similar medical emergency on which a helicopter may land to pick up a patient to provide emergency medical transport.

(C) A heli-facility permit is not required to land a helicopter engaged in firefighting or an emergency evacuation operation on a clear area on the roof of a tall building not designed as a heliport.

PART 10. Section 13-1-180 of the City Code is amended to read as follows:

§ 13-1-180 APPLICATION REQUIREMENTS FOR CATEGORY I [~~PERMANENT HELI-FACILITY~~].

(A) This section does not apply to a category II or category III [~~an application for a temporary helistop~~].

(B) An application for a category I [~~heli-facility~~] shall include:

(1) proof of insurance as required by section 13-1-185 [~~13-1-184~~] (*Insurance Required; Termination*);

(2) a description of the location (latitude and longitude) [~~type,~~] and intended use of the proposed helistop [~~heli-facility~~];

(3) a description of the size, layout, and topographical features of the proposed helistop [~~location of the heli-facility~~];

(4) the ~~[anticipated]~~ number of anticipated daily operations and hours of operation;

(5) for each helicopter ~~[the type of helicopters]~~ expected to use the proposed helistop ~~[facility]~~, the helicopter's tail number, ~~[including the]~~ manufacturer, model number, and maximum gross weight;

(6) a description of one or two approach and departure paths selected in compliance with FAA Advisory Circular 150/5390-2 (*Heliport Design Guide*) which should, insofar as safely practicable, avoid noise sensitive areas and environmentally sensitive areas ~~[a site plan, including:~~

~~(a) — the location, type, and height of security fences, berms, and other noise mitigation and security features;~~

~~(b) — the location and type of firefighting equipment at the site;~~

~~(c) — the location and type of fuel storage facilities at the site;~~

~~(d) — the method of surface preparation or stabilization for the touchdown pad, including material;~~

~~(e) — the locations and type of:~~

~~(i) — perimeter lighting, if required;~~

~~(ii) — site marking; and~~

~~(iii) — wind direction indication equipment;~~

~~(f) — each obstruction penetrating the heli-facility's imaginary surfaces as identified in 14 Code of Federal Regulation Part 77 (Objects Affecting Navigable Airspace)];~~

(7) a description of each obstruction penetrating the proposed helistop's imaginary surfaces as identified in 14 Code of Federal Regulation Part 77 (*Safe, Efficient Use, and Preservation of Navigable Airspace*) ~~[a Federal Aviation Administration letter of airspace determination];~~

(8) documentation of crowd control measures adequate for the circumstances of the helistop's intended use [~~a Federal Aviation Administration letter of no objection to the planned approach and departure routes~~];

(9) for a proposed elevated or rooftop helistop, certification by a registered professional engineer that the supporting structure for the touchdown and liftoff area satisfies the minimum design load recommended by FAA Advisory Circular 150/5390-2 [~~a copy, including attachments, of the following Federal Aviation Administration Forms:~~

(a) ~~7480-1 (Notice of Landing Area Proposal) as prescribed by Federal Aviation Administration Regulation Part 157 (Notice of Construction, Alteration, Activation, and Deactivation of Airports); and~~

(b) ~~7460-1 (Notice of Proposed Construction or Alteration) as prescribed by Federal Aviation Administration Regulation Part 77 (Objects Affecting Navigable Airspace)];~~

(10) application fee [~~an aerial photograph or current map sealed at least one inch to every 400 feet, marked to indicate:~~

(a) ~~the approach and departure paths; and~~

(b) ~~the location of all noise sensitive areas within a radius of 4,000 feet from the proposed site]; and~~

(11) any additional information required by the director [~~a report indicating the anticipated noise level at the proposed site and compliance with Federal Aviation Administration Advisory Circular 150/5020-1 (Noise Control and Compatibility Planning for Airports), except a hospital heliport;].~~

~~[(12) a certificate of structural compliance, attested to by a registered professional engineer or architect;~~

~~(13) a depiction of the owner's proposed logo, emblem, or identification marking;~~

~~(14) documentation of available motor vehicle parking; and~~

~~(15) additional information required by the director.]~~

(C) The director shall notify the following city departments and non-city agencies:

- (1) department;
- (2) police;
- (3) fire;
- (4) transportation;
- (5) parks and recreation;
- (6) planning and development review department;
- (7) code and compliance;
- (8) star flight; and
- (9) Austin-Travis County EMS.

(D) Notice and public comment period shall be provided as follows:

- (1) The department shall:
 - (a) within three business days of the receipt of an administratively complete application post a copy of the application online for public inspection;
 - (b) within three business days of any change in the administratively complete application (e.g. supplementation or amendment by the applicant, or city's "check-off" on a requirement or condition), update the copy of the application posted online; and
 - (c) within three business days of the receipt of an administratively complete application, give notice to the public by providing notice to the Austin Neighborhood Council and neighborhood associations within 500 feet in the vicinity to communicate such notice to their members and residents.

(E) the director shall, within three business days of making a decision, issue, deliver to the applicant, and post online the decision on the application in the form of a written opinion explaining the basis of the director's decision (including findings of fact and applicable provisions of law and of this article).

PART 11. Section 13-1-181 of the City Code is amended to read as follows:

§ 13-1-181 APPLICATION REQUIREMENTS FOR CATEGORY II ~~[TEMPORARY HELISTOP]~~.

(A) This section does not apply to an application for category I or category III.

(B) An application for a category II ~~[temporary helistop]~~ shall include:

(1) proof of insurance required under section 13-1-185 ~~[13-1-184]~~ (*Insurance Required; Termination*);

(2) a description of the location (latitude and longitude), type, and intended specific use of the proposed helistop;

(3) a description of the size, layout, and topographical features of the location of the proposed helistop;

(4) a description of each obstruction penetrating the helistop's imaginary surfaces as identified in 14 Code of Federal Regulation Part 77 (*Safe, Efficient Use, and Preservation of Navigable Airspace*)~~[the number of anticipated daily operations and hours of operation]~~;

(5) the specific dates during the requested heli-facility permit period for which authorization for operations is sought and, for each such date, the maximum hours of operation, and the maximum number of operations on an hourly and daily basis;~~[the types of helicopters expected to use the helistop, including manufacturer, model number, and maximum gross weight]~~;

(6) for each helicopter expected to use the proposed helistop, the helicopter's tail number, manufacturer, model number, and maximum gross weight;~~[an aerial photograph or current map scaled at least one inch to every 400 feet, marked to indicate:~~

(a) ~~the location of the temporary helistop;~~

~~(b) each obstruction penetrating the helistop's imaginary surfaces as identified in 14 Code of Federal Regulation Part 77 (Objects Affecting Navigable Airspace); and~~

~~(c) the location of all noise sensitive areas within a radius of 4,000 feet from the proposed site; and]~~

(7) an aerial image or current map of the proposed helistop and its environs, scaled at least one inch to every 400 feet, marked to indicate:

(a) the helistop boundaries;

(b) takeoff and landing pads;

(c) one or two approach and departure paths selected in compliance with FAA Advisory Circular 150/5392-2 (*Heliport Design Guide*) out to at least 4,000 feet horizontally from the landing area, which insofar as safely practicable should avoid noise sensitive areas and environmentally sensitive areas, and one of which (if there are two) shall be identified as the principal approach and departure path based on the prevailing wind direction for the dates of anticipated operations; [a Federal Aviation Administration letter of no objection to the planned approach and departure routes if there are a cumulative total of 11 or more helicopter takeoffs and landings at the proposed site; and]

(8) the location of all noise sensitive areas and environmentally sensitive areas within a radius of at least 4,000 feet horizontally from the proposed helistop landing area; and [additional information required by the director.]

(9) documentation of crowd control measures adequate for the circumstances of the helistop's intended use;

(10) for a proposed elevated or rooftop helistop, certification by a registered professional engineer that the supporting structure for the touchdown and liftoff area satisfies the minimum design load recommended by FAA Advisory Circular 150/5390-2; and

(11) application fee; and

(12) any additional information required by the director.

(C) The director shall notify the following city departments and non-city agencies:

- (1) department;
- (2) police;
- (3) fire;
- (4) transportation;
- (5) parks and recreation;
- (6) planning and development review department;
- (7) code and compliance;
- (8) star flight; and
- (9) Austin-Travis County EMS.

(D) Notice and public comment period shall be provided as follows:

- (1) The department shall:
 - (a) within three business days of the receipt of an administratively complete application post a copy of the application online for public inspection;
 - (b) within three business days of any change in an administratively complete application (e.g. supplementation or amendment by the applicant, or city's "check-off" on a requirement or condition), update the copy of the application posted online; and
 - (c) coordinate with the planning and development review department to provide public notice of the application, instructions for viewing the application online, comment period, and timetable for each stage of the application process to all persons who have standing to appeal the director's decision, in the following manner:

(i) within three business days of the receipt of an administratively complete application, post such notice online and request all neighborhood associations within 500 feet of the proposed helistop to communicate such notice to their members and residents;

(ii) within 10 days of the receipt of an administratively complete application, individual notice shall be delivered by mail to property owners and utility customers within 500 feet of the proposed helistop and to property owners and utility customers within the proposed helistop's 65 Leq dB noise contour as modeled by the FAA noise model.

(2) The public comment period shall commence on the date the required notice has been provided and end 30 days after a filed application is administratively complete in all respects.

(3) The department shall compile and submit for the director's review all comments received during the public comment period.

(E) Within 30 days from the date the public comment period ends, the director shall issue, deliver to the applicant, and post online the decision on the application in the form of a written opinion explaining the basis of the director's decision (including findings of fact and applicable provisions of law and of this article).

(F) Operations may be conducted only on the specific dates, and subject to the maximum number of operations and number of approved helicopters, for which a heli-facility permit is issued.

(G) The director, on a day-by-day basis, after taking into consideration the time of day, operational hours, proximity to noise sensitive areas, and/or environmentally sensitive areas, noise sensitivity, complaints, compatibility with surrounding land use, and risks to life, health or property, shall have discretion to authorize increased or decreased frequency of operations and/or number of approved helicopters during portions of the approved operational hours for a category II, provided however, that the director:

(1) shall not have discretion to increase the number of daily or total operations and/or number of approved helicopters beyond the maximum number allowed under a category II permit; and

(2) shall cause the department to promptly give notice to neighborhood associations in the vicinity of the heli-facility of any such exercise of the director's discretion.

PART 12. Section 13-1-182 of the City Code is amended to read as follows:

§ 13-1-182 APPLICATION REQUIREMENTS FOR CATEGORY III ~~[DENIAL OF PERMIT]~~.

(A) This section does not apply to an application for category I or category II.~~[The director may deny an original or renewal application for a heli-facility if the director finds that:~~

~~(1) the applicant has:~~

~~(a) failed to submit a complete application;~~

~~(b) been denied a site development permit for the proposed heli-facility; or~~

~~(c) been refused a letter of no objection by the Federal Aviation Administration; or~~

~~(2) the proposed heli-facility:~~

~~(a) presents a material hazard to public health or safety; or~~

~~(b) does not comply with applicable aviation law or this article].~~

(B) An application for category III shall include:

(1) proof of insurance as required by section 13-1-185 (*Insurance Required; Termination*);

(2) a description of the location, type, and intended use of the proposed heliport;

(3) a description of the size, layout, and topographical features of the location of the proposed heliport;

- (4) a description of each obstruction penetrating the heliport's imaginary surfaces as identified in 14 Code of Federal Regulation Part 77 (*Safe, Efficient Use, and Preservation of Navigable Airspace*);
- (5) the anticipated hours of operation and average number of daily operations;
- (6) a description of the types of helicopters expected to use the proposed heliport, including the manufacturer, model number, and maximum gross weight;
- (7) a site plan for the proposed heliport, including:
- (a) the location, type, and height of security fences, berms, and other noise mitigation and security features;
 - (b) the location and type of firefighting equipment at the site;
 - (c) the location and type of fuel storage facilities at the site;
 - (d) the method of surface penetration or stabilization for the touchdown pad(s), including material; and
 - (e) the locations and types of:
 - (i) perimeter lighting, if required;
 - (ii) site marking; and
 - (iii) wind direction indication equipment;
- (8) completed copies, including attachments, of each of the following FAA forms:
- (a) 7480-1 (*Notice of Landing Area Proposal*) as prescribed by 14 Code of Federal Regulation Part 157 (*Notice of Construction, Alteration, Activation, and Deactivation of Airports*); and

(b) 7460-1 (Notice of Proposed Construction or Alteration) as prescribed by 14 Code of Federal Regulation Part 77 (Safe, Efficient Use, and Preservation of Navigable Airspace);

(9) an aerial image or current map of the proposed heliport and its environs, scaled at least one inch to every 400 feet, marked to indicate:

(a) the heliport boundaries;

(b) takeoff and landing pads;

(c) at least two approach and departure paths selected in compliance with FAA Advisory Circular 150/5390-2 (Heliport Design Guide) out to at least 4,000 feet horizontally from the landing area, one of which shall be identified as the principal approach and departure path based on the prevailing wind direction for the dates of anticipated operations and both of which insofar as safely practicable should avoid noise sensitive areas and environmentally sensitive areas;

(d) the location of all noise sensitive areas and environmentally sensitive areas within a radius of at least 4,000 feet horizontally from the proposed heliport landing area; and

(e) noise contours of L_{dn} 65, 70, 75, and 80 for the proposed heliport based on noise modeling;

(10) such additional information required by Appendix A of 14 Code of Federal Regulation Part 150 Section 103 [A150.103], in a form suitable for input to a noise model;

(11) a certificate of structural compliance, attested to by a registered professional engineer;

(12) a depiction of the owner's proposed logo, emblem, or identification marking;

(13) documentation of adequate available motor vehicle parking; and

(14) any additional information required by the director. [The director may deny a renewal application if the director determines that adjacent development makes continued operation of a heli facility creates a threat to public health or safety].

(C) Notice and public comment period for a category III shall follow the conditional use permit process under title 25 of the code.

PART 13. Section 13-1-183 of the City Code is amended to read as follows:

§ 13-1-183 DENIAL OF APPLICATION FOR HELI-FACILITY PERMIT~~[PERMIT OR AUTHORITY TERM AND RENEWAL]~~.

(A) The director may deny or condition an application if:

(1) the applicant has failed to timely submit an administratively complete application; or

(2) the proposed heli-facility:

(a) would pose a material threat to life, health, or property; or

(b) would not comply with applicable law; or

(c) would expose any noise sensitive area to incompatible noise; or

(d) would pose a material threat to an environmentally sensitive area; or

(e) would not comply with any other requirement of this article.

~~[A heli facility permit is valid for three years from the date of issuance].~~

(B) The director may deny or condition the approval of an application if
~~[Authorization to operate a temporary helistop is valid for the earlier of]:~~

(1) prior operations associated with the applicant, helicopters, or helicopter operators associated with the application have a history of: ~~[the duration of the event or construction project; or]~~

(a) violating section 13-1-14; or

(b) violating section 13-1-15; or

(c) material violations of this article;

(2) the applicant has, in the current or a prior application, provided false material information either intentionally or negligently~~[180 days from the date of issuance].~~

~~[(C)—A permittee may renew a heli-facility permit or authorization before the expiration of the existing permit or authorization.]~~

~~[(D)—A permittee must file a renewal application including:~~

~~(1)—a renewal applicable fee; and~~

~~(2)—a certificate that there has been no material change in the information provided in the original permit application; or~~

~~(3)—if a material change has occurred, a description of each change.]~~

~~[(E)—In this section, “material change” includes a change in:~~

~~(3)—the number of operations or hours of operation;~~

~~(4)—the type of helicopters using the heli-facility;~~

~~(5)—the approach or departure paths to the heli-facility that may constitute a helicopter operation constraint or safety hazard; or~~

~~(4)—development near the heli-facility that may affect air or ground access or constitute a hazard under 14 Code of Federal Regulation Part 77 (Objects Affecting Navigable Airspace).]~~

PART 14. Section 13-1-184 of the City Code is amended to read as follows:

§ 13-1-184 HELI-FACILITY PERMIT TERM AND RENEWAL~~[INSURANCE REQUIRED; TERMINATION].~~

(A) A category III heli-facility is valid for five years from the date of issuance~~[The owner or operator of a heli-facility must maintain a commercial~~

~~general liability policy with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for each occurrence].~~

(B) A permittee shall file an application to renew a category III heli-facility permit at least 60 days before the expiration of the existing permit~~[A policy under this section shall:~~

~~(1) name the City as an additional insured;~~

~~(2) provide coverage against all claims arising out of the operation of the heli-facility, including bodily injury, personal and advertising injury, death, contractual liability, independent contractors, and property damage;~~

~~(3) be endorsed to provide the City a thirty (30) day notice of cancellation except for non-payment of premium;~~

~~(4) be issued by an insurance company authorized to do business in the State of Texas; and~~

~~(5) contain waiver of subrogation and recovery in favor of the City].~~

(C) A permittee must file a renewal application with the department including:

(1) the application fee; and

(2) a certificate that there has been no material change in the information provided in the original application; or

(3) if a material change has occurred, a description of each change
~~[The owner of a heli-facility shall annually provide the director with a certificate of insurance].~~

(D) In this section, “material change” includes a change in:

(1) the number of operations or hours of operation;

(2) the type of helicopters using the heliport;

(3) the approach and departure paths to the heliport that may constitute a helicopter operation constraint or safety hazard; or

(4) development near the heliport that may affect air or ground access or constitute a hazard under 14 Code of Federal Regulation Part 77 (Safe, Efficient Use, and Preservation of Navigable Airspace)[The director may terminate a heli-facility permit if the owner fails to maintain the required insurance].

(E) A heli-facility permit for a category I or category II is valid for the shorter of:

(1) the duration of the event or construction project for which the heli-facility permit is issued; or

(2) 180 days.

(F) Category I and category II heli-facility permits are non-renewable.

PART 15. Section 13-1-185 of the City Code is amended to read as follows:

§ 13-1-185 INSURANCE REQUIRED; TERMINATION [~~HELI-FACILITY STANDARDS AND MARKING~~].

(A) The owner or operator of a heli-facility must maintain aircraft liability including premises liability and general liability policy with a combined single limit of liability for bodily injury and property damage of not less than \$5,000,000 for each occurrence [~~The design, construction and operation of a heli-facility must comply with applicable City building and fire codes and aviation law, including Federal Aviation Administration Advisory Circular 150/5390-2A (Heliport Design Guide)~~].

(B) A policy under this section shall:

(1) name the city as an additional insured;

(2) provide coverage against all claims arising out of the operation of the heli-facility, including bodily injury, personal and advertising injury, death, contractual liability, independent contractors, and property damage;

(3) be endorsed to provide the city a thirty (30) day notice of cancellation except for non-payment of premium;

(4) be issued by an insurance company authorized to do business in the State of Texas; and

(5) contain waiver of subrogation and recovery in favor of the city [~~Except as provided in subsection (C), a heli-facility must be marked as prescribed by Federal Aviation Administration Advisory Circular 150/5390-2A (*Heliport Design Guide*)~~].

(C) The owner of a heli-facility shall annually provide the director with a certificate of insurance [~~Only a public use heliport or hospital heliport may be marked with the letter "H"~~].

(D) The director may terminate a heli-facility permit if the owner fails to maintain the required insurance [~~A private use heliport shall use an authorized logo, emblem, or other owner identification in the touchdown area that:~~

~~(1) is known to the pilots authorized to use the facility; and~~

~~(2) does not detract from other required markings~~].

~~[(E) The owner of a heli-facility must mark the lower left corner of the designated final approach and takeoff area as viewed from the primary direction of approach with the City heliport identification number. Each character of the heliport identification number shall be two feet high, composed of a six inch wide white stripe with a one inch black border]~~.

PART 16. Section 13-1-186 of the City Code is amended to read as follows:

§ 13-1-186 HELI-FACILITY STANDARDS AND MARKING[~~NOISE ASSESSMENT GUIDELINES~~].

(A) The design, construction, and operation of a heli-facility must comply with applicable city building and fire codes and aviation law including FAA Advisory Circular 150/5390-2 (*Heliport Design Guide*) [~~This section does not apply to a hospital heliport~~].

(B) A heli-facility must be marked as prescribed by FAA Advisory Circular 150/5390-2 (*Heliport Design Guide*) [~~A heli-facility shall comply with the noise assessment guidelines prescribed by Federal Aviation Administration Advisory Circular 150/5020-1 (*Noise Control and Compatibility Planning for Airports*)~~].

(C) A private use heliport shall use an authorized logo, emblem, or other owner identification in the touchdown area that:

(1) is known to the pilots authorized to use the heli-facility; and

(2) does not detract from other required markings.

PART 17. Section 13-1-187 of the City Code is amended to read as follows:

§ 13-1-187 NOISE ASSESSMENT GUIDELINES~~[INSPECTION AUTHORIZED; DOCUMENTATION OF STRUCTURAL INTEGRITY].~~

(A) This section does not apply to a hospital heliport~~[The owner or operator of a heli-facility shall permit access to the facility on demand for periodic inspection by City personnel, including Fire Department personnel].~~

(B) To the extent made applicable by this article, a heli-facility shall comply with the guidelines in FAA Advisory Circular 150/5020-1 (*Noise Control and Compatibility Planning for Airports*) ~~[If requested by the director or the Fire Department, the owner or operator of a heli-facility shall submit a certificate of structural compliance attested to by a registered professional engineer documenting the structural integrity of the facility].~~

~~[(C) The chief of the Fire Department shall conduct a periodic inspection of each heli-facility and submit a copy of an inspection report to the director for review and, if necessary, appropriate action.]~~

PART 18. Section 13-1-188 of the City Code is amended to read as follows:

§ 13-1-188 INSPECTION AUTHORIZED ~~[MAINTENANCE REQUIRED; TERMINATION].~~

(A) The owner or operator of a heli-facility shall permit access to the facility on demand for periodic inspection by city personnel, including fire department personnel ~~[The owner or operator of a heli-facility shall maintain the buildings, structures, and ground areas used to store helicopters or related to helicopter use in a safe and sanitary condition].~~

(B) The chief of the fire department shall conduct a periodic inspection of each heli-facility and submit a copy of an inspection report to the director and the owner for review and, if necessary, appropriate action ~~[The owner or operator of a~~

~~heli-facility shall maintain required equipment and security devices in good working order].~~

~~[(C) The director may terminate a heli-facility permit or revoke approval of a heli-facility site if the owner or operator fails to properly maintain the facility.]~~

PART 19. Section 13-1-189 of the City Code is amended to read as follows:

§ 13-1-189 MAINTENANCE REQUIRED; TERMINATION ~~[RESTRICTION ON ALTERATIONS TO FACILITY OR OPERATIONS]~~.

(A) The owner or operator of a heli-facility shall maintain the buildings, structures, and ground areas used to store helicopters or related to helicopter use in a safe and sanitary condition for the term of the heli-facility permit.

(B) The owner or operator of a heli-facility shall maintain required equipment and security devices in good working order for the term of the heli-facility permit.

(C) The director may terminate a heli-facility permit if the owner or operator fails to properly maintain the heli-facility or any required equipment or security devices ~~[The owner or operator of a heli-facility may not enlarge or modify the design or layout of a heli-facility or make any material change to the operations of a heli-facility without the prior written consent of the director].~~

(D) The director may terminate a heli-facility permit if the owner or operator fails to comply with applicable provisions of the City Code.

(E) The director shall terminate a heli-facility permit if the heli-facility poses a material threat to life, health, or property or adjacent development makes continued operation of the heli-facility a material threat to life, health, or property.

PART 20. Section 13-1-190 of the City Code is amended to read as follows:

§ 13-1-190 RESTRICTION ON ALTERATIONS TO FACILITY OR OPERATIONS~~[NUMBER OF TEMPORARY HELISTOPS WITHIN A CERTAIN DISTANCE AND PERIOD OF TIME]~~.

The owner or operator of a heli-facility may not enlarge or modify the design or layout of a heli-facility or make any material change to the operations of a heli-facility without the prior written consent of the director~~[The director shall not approve applications, including renewal applications, for the operation of more than two temporary helistops that are within a 1.5 mile radius of each other and within a term of 180 days].~~

PART 21. Section 13-1-191 of the City Code is added to read as follows:

§ 13-1-191 RESTRICTION ON NUMBER OF CATEGORY II HELI-FACILITIES WITHIN A CERTAIN DISTANCE AND PERIOD OF TIME.

The director shall not approve applications, including renewal applications, for the operation of more than two category II heli-facilities that are:

- (1) within 1,000 feet of noise sensitive area;
- (2) within 0.5 miles of each other; and
- (3) within a term of 180 days.

PART 22. Section 13-1-201 of the City Code is amended to read as follows:

A person who violates this chapter or willfully obstructs or prevents compliance with this chapter shall commit an offense punishable as provided in section 1-1-99 (*Offenses; General Penalty*) of the Code. Except as provided in sections 13-1-15 and 13-1-178 (D), each [Each] day a violation continues is a separate offense for purposes of section 1-1-99.

PART 23. This ordinance takes effect on July 1, 2013.

PASSED AND APPROVED

June 20_____, 2013

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Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk